IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Customs Application (L) No.4 of 2004

Commissioner of Customs (Imports) ... Applicant
v/s.
M/s.Novozymes South Asia (Pvt.) Ltd. (Formerly known as M/s.Novo Nordisk Enzymes Pvt.Ltd.) ... Respondent

Mr.A.S.Rao with Mr.Y.R. Mishra i/by Mr.H.P.Chaturvedi for applicant.

Mr.M.R.Baya for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 29th November 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The applicant - Commissioner of Customs (Imports) is seeking a Reference to the Tribunal being aggrieved by the judgment and order dated 10th July 2001 passed by the Commissioner of Customs (Appeals). Here, what has happened was that the assessment had been finalized and later the Commissioner of Customs (Appeals) on an Appeal filed by the respondent herein had taken a view that the impugned order in original was erroneous inasmuch as it directed loading the invoice value to the extent of 20%. The Commissioner of Customs (Appeals) clearly held that the parties were not

related and, therefore, the loading was not justified. The Department was seeking in a way reopening of the final assessment, which the Tribunal declined to do it. As far as the finding that the parties were not related, the same is not disturbed in any way. The Revenue has not challenged the said finding. That being so, there is no question of referring the matter once again to the Tribunal inasmuch as there is no error in the order.

3. In the circumstances, the Application is rejected.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)